

IN RE: PETITION FOR ZONING VARIANCE
SW/S Maple Avenue, 860' NW of
the c/l of Hyde Park Road
(1308 Maple Avenue)
15th Election District
5th Councilmanic District
Joseph K. Pokorny, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-208-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the owners of the subject property, Joseph K. and Alva A. Pokorny. The Petitioners request relief from Sections 1802.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front average building setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Joseph Pokorny, property owner, and William N. Bafitis, Professional Engineer. There were no Pro-estants.

Testimony indicated that the subject property, known as 1308 Maple Avenue, consists of 0.441 acres zoned D.R. 5.5 and is presently unimproved. Said property is located within the Chesapeake Bay Critical Areas in the Hyde Park subdivision. The Petitioners are desirous of developing the property with a single family dwelling. While the property is of sufficient size to permit the construction of the proposed dwelling without the need for a variance, the relief requested is necessary due to the location of a springhead on the property which has forced the Petitioners to situate the proposed dwelling to within 25 feet of the front property line. Further, due to the property's location within the Chesapeake

Bay Critical Areas, the Petitioners must comply with the recommendations of the Department of Environmental Protection and Resource Management (DEPRM).

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must

take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of March, 1993 that the Petition for Zoning Variance requesting relief from Sections 1802.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front average building setback of 25 feet in lieu of the required 30 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such

time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) Compliance with the Zoning Plans Advisory Committee comments submitted by the Office of Planning and Zoning, dated January 8, 1993. The Petitioners shall remove all junk and debris from the subject site within sixty (60) days of the date of this Order and prior to the issuance of any building permits.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated January 15, 1993, attached hereto and made a part hereof.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 3/31/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 3/31/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 3/31/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 3/31/93
By [Signature]

- 2 -

- 3 -

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

March 30, 1993

(410) 887-4386

Mr. & Mrs. Joseph K. Pokorny
9103 Halton Road
Baltimore, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
SW/S Maple Avenue, 860' NW of the c/l of Hyde Park Road
(1308 Maple Avenue)
15th Election District - 5th Councilmanic District
Joseph K. Pokorny, et ux - Petitioners
Case No. 93-208-A

Dear Mr. & Mrs. Pokorny:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-1391.

Very truly yours,
Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Chesapeake Bay Critical Areas Commission
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM
People's Counsel

file

CRITICAL Petition for Variance 93-208-A to the Zoning Commissioner of Baltimore County for the property located at 1308 Maple Avenue which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 1802.3.C.1 and 303.1 (B.C.Z.R.) to permit a front average building setback of 25' in lieu of the required 30 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty required compliance with Baltimore County regulations regarding Chesapeake Bay Critical Areas, protection by buffering of non-tidal wetlands, streams and springs radically reduces the available area for placement of a dwelling thus generating the hardship and practical difficulty requiring a variance to the B.C.Z.R.)

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

(Type or Print Name)

Signature

Address

City

State

Zip Code

Signature

Address

City

State

Zip Code

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s)

Joseph K. Pokorny

[Signature]

Alva A. Pokorny

[Signature]

8103 Halton Road 823-2000

Baltimore MD 21204

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name 825-7533

Address OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

REVIEWED BY: *[Signature]* DATE: 12-13-92

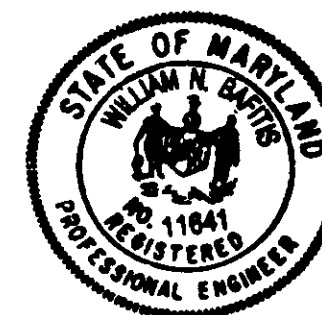
ORDER RECEIVED FOR FILING
Date 3/31/93
By [Signature]

#216

Bafitis & Associates, Inc.

ZONING DESCRIPTION 1308 Maple Avenue

Beginning for the same at a point on the southside of Maple Avenue, 40 feet wide, being a distance of 860' northwesterly from the centerline of Hyde Park Road said point of beginning also being at the north west corner of Lot No. 111 on Plat No.2 (revised), Goodwood Farms, which plat is recorded among the Land Records of Baltimore County in Plat Book Liber W.B.M. No. 9, Folio 46, thence running with the binding on said south side of Maple Avenue south 44°15' east 100 feet to a point, thence leaving the south side of Maple Avenue the following three courses: S.45°45' W., 198.83 feet, N.36°29' W., 100.93 feet, N.45°45' E., 185.19 feet to the place of beginning. Containing 10,890 square feet being known as 1308 Maple Avenue.



MD Reg. No. 11641

Civil Engineers / Land Planners / Surveyors — 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-381-2336

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 15th Date of Posting 4/1/93
Posted for: Variance
Petitioner: Joseph & Alva Pokorny
Location of property: 1308 Maple Ave., 15th & Hyde Park Rd.
Location of Signs: 1308 Maple Ave. at Hyde Park Rd.
Remarks: [Signature]
Posted by: [Signature] Date of return: 4/1/93
Number of Signs: 7

CERTIFICATE OF PUBLICATION

TOWSON, MD. 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/1/93

THE JEFFERSONIAN,

S. Zeke Orlean
Publisher

[illegible]

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

JUL 1 1 1993

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-206-B (Item 216)
SM/S Maple Avenue, .860' BM of c/l Hyde Park Road
1308 Maple Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Joseph E. Pokorey and Alva A. Pokorey
HEARING: FRIDAY, FEBRUARY 5, 1993 at 9:00 a.m. in Rm. 106, Office Building.

Variance to permit a front average building setback of 25 feet in lieu of the required 30 feet.

Bill Jablon


Arnold Jablon
Director

cc: Joseph and Alva Pokorey

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

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Baltimore County (Government
Office of Zoning Administration
and Development Management)



111 West Chesapeake Avenue
Towson, MD 21204

January 22, 1993

(410) 887-3353

Mr. and Mrs. Joseph K. Pokorny
8103 Halton Road
Baltimore, MD 21204

RE: Case No. 93-208-A, Item No. 216
Petitioner: Joseph K. Pokorny, et ux
Petition for Variance


Dear Mr. and Mrs. Pokorny:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

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DPW/Developers Engineering Division (Public Services)
Development Review Committee Response Form
Authorized signature Deanne A. Kasey Date 11/11/93

Project Name	Waiver Number	Zoning Issue	Meeting Date
✓ J.F.O. Holding Corporation		213	1-04-93
DED DEPRM RP STP TE			NC
✓ Marshall and Mildred Whipperman		214	
DED DEPRM RP STP TE			NC
✓ Eudowood Holding Corporation		215	
DED DEPRM RP STP TE			NC
✓ Joseph K. And Alva A. Pokorny		216	
DED DEPRM RP STP TE			NC
✓ Pikesville Partnership		217	
DED DEPRM RP STP TE			NC

COUNT 5

Wyanness Associates Limited Partnership	208	12-28-92	Comment
DED RP STP			
✓ Pickersgill, Inc.		212	
DED DEPRM RP STP TE			NC

COUNT 2

Stonegate at Patapsco (Azreal Property)

90476 6-1-92

ZON DED TE (Waiting for developer to submit plans first)

COUNT 1

FINAL TOTALS

COUNT 8

*** END OF REPORT ***

43-208-A 2-

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

DATE: January 8, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: 1308 Maple Avenue

INFORMATION:
Item Number: 216

Petitioner: Joseph K. Pokorny

Property Size: 0.441 acres

Zoning: DR 5.5

Requested Action: Variance

Hearing Date: 1 /

SUMMARY OF RECOMMENDATIONS:
The petitioner is requesting a variance to permit a front average building setback of 25' in lieu of the required 30 feet.

The Office of Planning and Zoning recommends APPROVAL of the petitioner's request. However, we recommend that the following condition be placed in the Zoning Commissioner's Order.


The Office of Planning and Zoning made a site visit and found the property to be in a deteriorating condition. The petitioner should clean up all junk and debris from this property and replace or repair the deteriorating wooden fence along the property lines.

Prepared by: Francis Morrey

Division Chief: Gary L. Kern

PK/FM:rdn

216.ZAC/ZAC1

 **Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

1-4-93

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

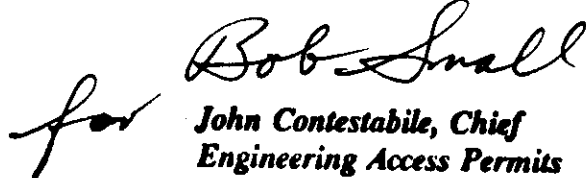
Re: Baltimore County
Item No.: 4216

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is 410-333-1350

Typewriter for Impaired Hearing or Speech
303-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

